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Summary record of the 1629th meeting
Held at the Palais Wilson, Geneva, on Wednesday, 2 May 2018, at 10 a.m.

Chair: Mr. Modvig

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Sixth periodic report of Czechia (CAT/C/CZE/6; CAT/C/CZE/QPR/6)

1. *At the invitation of the Chair, the delegation of Czechia took places at the Committee table.*

2. **Ms. Baršová** (Czechia), introducing the sixth periodic report of Czechia, said that the 2016 official policy outline of the prison system, which aimed at reducing recidivism and reintegrating prisoners who had served their sentences into society, provided for programmes for convicted prisoners and post-release support in areas such as debt counselling, addiction and financial literacy. It also aimed to create a support system for governmental and other bodies working in that field and promoted socially responsible public procurement by requiring the employment of persons with a criminal record in public works.

3. Prison conditions had also been improved, with wings being refurbished and modernized, and accommodation being restructured. Remuneration for working prisoners had recently been significantly increased, notably for prisoners with a university education. Prisoners were expected to make financial provision for the period after release in order to reduce the risk of relapse into criminal activity.

4. In the area of domestic and gender-based violence, in addition to the Action Plan for the Prevention of Domestic and Gender-Based Violence for the period 2015–2018, Czech law contained measures to protect victims from perpetrators. Police could ban a person from the shared home for up to 10 days, a period that could be extended by court injunction at the victim's request. The court could also restrict the right to live in the shared household for up to six months if further cohabitation became unbearable for one of the spouses as a result of physical or mental violence. There was a network of counselling services and intervention centres, with contact points in each regional capital.

5. In addition, under the Act on Victims of Crime, adopted in 2013, State and other authorities were required to treat victims politely, considerately and with respect for their dignity. Victims had the right to comprehensible information, professional assistance, privacy, protection from secondary victimization and monetary compensation for the harm suffered. Law-enforcement authorities informed victims about sources of professional support, and vulnerable victims, including children, were provided with professional assistance free of charge. Victims and witnesses had the right to information concerning convicted perpetrators' release or escape. Video and audio devices were used in court proceedings to minimize contact between the victims and the perpetrators.

6. As to asylum and migration, several alternatives to detention of foreigners had been introduced, including a requirement to report their place of residence, the deposit of a sum of money, or an obligation to report in person to the police within a specified time. An amendment to introduce the notion of designated place of residence was currently under consideration.

7. In response to the large increase in the number of foreigners detained in the second half of 2015 during the so-called migration crisis, staffing in detention facilities for foreigners and in the system generally had been considerably strengthened. The Bělá-Jezová facility had been adapted to receive families with children, with security features such as barbed wire being removed and playgrounds and leisure activities made available. Security service uniforms no longer looked like police uniforms and families had access to free legal assistance and a modern medical centre. The facility was regularly inspected by the Public Defender of Rights (Ombudsperson) and international organizations. Two further detention facilities for male foreigners had also been opened.

8. Turning to the training of professionals who dealt with persons at risk of ill-treatment, she said that workers in the social services were thoroughly trained to detect and prevent torture and cruel, inhuman or degrading treatment or punishment of persons and a wide range of training courses had been designed for judges, prosecutors and prison

workers. Such training was backed up by the provision of a Czech translation of the standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

9. Sterilization was now more closely regulated, under the Law on Specific Health Care Services. The Law permitted sterilization either on health grounds or on other grounds. Sterilization on health grounds could be carried out on a patient aged over 18, with their explicit written consent. Sterilization for reasons other than health could be carried out on a patient aged over 21, based on their written request. Patients who were younger or who had limited legal capacity could undergo sterilization for health reasons only with the written consent of their legal representative, a positive opinion of an independent expert commission, and the consent of the court. The patient or their legal representative was always invited to attend the commission's deliberations. The patient was informed about the nature of the operation, its permanent consequences and its possible risks. There was a compulsory period of several days' reflection and explicit consent was again requested just before the operation took place. Thus free and informed consent for the operation was secured.

10. The Office of the Ombudsperson, as the national preventive mechanism under the Optional Protocol to the Convention, made a significant contribution to the prevention of ill-treatment in the Czech Republic. The Office conducted visits to facilities and evaluated conditions there. It could issue recommendations for improvement, set standards, organize training and advocate for systemic changes. The Ombudsperson was also competent to monitor the expulsion procedure to ensure that foreigners were not subject to ill-treatment. Her office had recently also been mandated to monitor the implementation of the Convention on the Rights of Persons with Disabilities, including in respect of their right to freedom from torture and cruel, inhuman or degrading treatment or punishment, their treatment in facilities and any assistance and care provided in other contexts.

11. **Mr. Heller Rouassant** (Country Rapporteur), noting from the State party's periodic report, and from its latest report to the Human Rights Council within the framework of the universal periodic review, that it was conducting an analysis of the rate of prosecution of torture and ill-treatment, asked what progress was being made with that exercise, which ministry was responsible for it and when a result might be expected.

12. With regard to the independence of the General Inspection of Security Forces, the body charged with investigating complaints against the police, the prison service or the customs administration, he noted that it no longer reported to the Ministry of the Interior. However, according to the Helsinki Committee, there were still ties between the police and the General Inspection, which raised doubts about its impartiality and its ability to conduct investigations in practice. He would welcome further information on the numbers of complaints received and the operation of the General Inspection.

13. He said that there was no national human rights institution within the meaning of the Paris Principles. In its report, the Public Defender of Rights stated that its competence did not include all fields of law and did not cover all fundamental rights and freedoms. The definition of its scope could not therefore be considered to meet the requirements of the Paris Principles. It also had limited powers in areas such as promotion of human rights, education and monitoring.

14. He asked to what extent the recommendations of the Ombudsperson were implemented. He would like details of the functioning of the Ombudsperson's office and on the status of the proposed amendments to the Act on the Public Defender of Rights of 2015 aimed at further strengthening the Ombudsperson's powers in the area of human rights. He wondered what accounted for the slow progress of the legislative process in that regard. He asked whether progress had been made concerning the Ombudsperson's accreditation with the Global Alliance of National Human Rights Institutions, what prevented the establishment of a national human rights institution in accordance with the Paris Principles and how obstacles to doing so would be addressed. It was a matter of concern that, in 2017, the parliament had voted against extending the Office of the Ombudsperson's powers to combat discrimination, since it was the body charged with dealing with cases of discrimination. A national human rights institution should be established promptly.

15. Turning to article 3 of the Convention, he would like updated statistics on extraditions from Czechia to other States, and vice versa, between 2016 and 2018. According to the Ombudsperson's report, there had been an increase in the number of decisions on expulsions to countries in a critical situation, such as the Syrian Arab Republic and Afghanistan, in which the risk of torture was not adequately assessed and the individuals concerned were not informed of their rights or provided protection. He would like further details of those cases and the lot of the persons involved. He was concerned that information concerning diplomatic assurances obtained from receiving States was not consistent with the Ombudsperson's reports of forced administrative expulsions of foreign nationals. He asked how many visits had been conducted in recent years by the State party to a receiving State following an extradition from its territory to monitor the application of the assurances obtained and whether such visits were carried out regularly.

16. He would like information on the prohibition under the Asylum Act of the detention of vulnerable groups of asylum seekers and on reports that minors under 15 years of age were often detained in the interests of family unity, which did not justify depriving them of their liberty. Updated information would be appreciated on the Bělá-Jezová reception centre where migrants, including minors, were sometimes held for periods of up to 90 days and which had been described in 2015 by the Justice Minister of Czechia as "worse than a prison". Furthermore, the United Nations High Commissioner for Human Rights in 2015 had criticized the treatment of migrants in the State party, referring to the systematic violations of migrants' rights in an effort to deter them from entering or staying in the country. He asked whether the consultation mechanism to evaluate the situation of migrants and refugees, reportedly set up in response to the Ombudsperson's report, was in operation. He would appreciate updated statistical data on the numbers of asylum applications filed and granted from 2016 to 2018 and clarification of the term "additional protection", referred to in paragraph 58 of the State party's report. He would be grateful if the delegation could comment on reports that asylum seekers had been routinely detained upon their arrival in the State party between 2015 and 2017 and their asylum claims disregarded and that they were required to pay for their accommodation and food. He would also like comments relating to the illegal confiscation of migrants' money to pay for their involuntary stay in detention centres. He recalled the recommendation of the Office of the United Nations High Commissioner for Refugees to put an end to the detention of all migrant children and the concerns raised by various treaty bodies about the lengthy detention of minors awaiting expulsion. He drew attention to reports that migrants had to rely on voluntary support from non-governmental organizations as the State could not guarantee legal assistance or financial support for them.

17. In the light of the Ombudsperson's report indicating the absence of a legal definition of stateless persons in line with the 1954 Convention relating to the Status of Stateless Persons and the lack of data on stateless persons, he wished to know whether the State party had an estimate of the number of such persons in the country.

18. Turning to article 10 of the Convention and the issue of training aimed at detecting signs of ill-treatment, he asked whether the spousal assault risk assessment and domestic violence questionnaire referred to in the report was used not only to identify victims of domestic violence but also to evaluate and detect cases of torture committed by law enforcement personnel. He asked whether the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) was used for training in the detection of signs of ill-treatment and torture. He wondered whether the amendment to the Health Care Services Act, setting out the obligation of physicians to report suspected ill-treatment to the responsible supervising authorities, had been adopted.

19. Noting the discrimination faced by the Roma community in areas including education, housing and employment, he asked whether the campaign against racism and hate violence launched by the Government in 2014 was still under way and how it had been carried out. The High Commissioner for Human Rights had expressed concerns about the xenophobic discourse at the highest levels of the State against Muslims and refugees in general. Noting the nationwide "Hate-Free Culture" and "Hate-Free Zone" campaigns referred to in the national universal periodic review report and elsewhere, he would

appreciate further information on all measures to combat discrimination in the State party. He wished to know more about the status of implementation of the Roma Integration Strategy for the period 2015–2020 and the plans to introduce a legal aid system in July 2018. He noted that, while the Aliens Act had been amended to authorize monitoring visits by international or non-governmental organizations to detention facilities, prison management was entitled to refuse those visits if it considered that they were a threat to security.

20. He wished to know what progress had been made to prohibit the use of enclosed restraint beds, also known as cage or net beds, and to establish strict methodology guidelines on the use of restraints, with a view to progressively eliminating the use of all forms of restraint measures in psychiatric institutions. While welcoming the introduction of a complaints mechanism for patients in psychiatric institutions, he would appreciate updated information regarding the status of the investigation into the death of Věra Musilová, a patient at the Dobřany psychiatric hospital who had died as a result of being restrained in a net bed. Further information on the progress made to reform and modernize the system of psychiatric care in the country and move towards a more community-based, human rights approach to psychiatric treatment would also be welcome.

21. In relation to the forced sterilization of Roma women, he asked what action had been taken to remove the three-year statute of limitations for such offences and establish an effective mechanism to enable victims to file claims for compensation with the courts. Concerning the surgical castration of sex offenders, he wished to know whether the State party had taken steps to uphold international standards of care for adult sex offenders and end the practice of castrating detained sex offenders and persons who had not committed a serious offence but were considered at risk of doing so. He also wondered whether efforts had been made to explicitly prohibit the use of corporal punishment in all settings. Lastly, he would welcome further information regarding the alternatives to detention offered to asylum seekers, specifically the option for migrants to reside in a place designated by the police.

22. **Mr. Touzé** (Country Rapporteur), referring to the arguments put forward by the State party in paragraph 6 of its report, said that the European Court of Human Rights had not excluded the fact that the discriminatory treatment of a minority by the majority fell under article 3 of the European Convention on Human Rights. The Court had declared the case of *D.H. and others v. the Czech Republic* regarding the placement of Roma children in establishments for children with disabilities inadmissible owing to a lack of concrete evidence submitted by the complainant, not because of the lack of a link between the treatment experienced by the Roma children and article 3 of the Convention. In relation to the State party's argument regarding the practices of other treaty bodies, he recalled that each Convention had its own set of specific obligations and legal distinctions. Taking those two points into consideration, it was clear that the issues surrounding the schooling of Roma children did indeed fall under the scope of application of the Convention against Torture, particularly given that the placement of children from minority groups in schools not suitable for their intellectual capacity constituted humiliating and degrading treatment as set forth in article 1 of the Convention. He would therefore appreciate further information regarding the concrete steps taken to abolish the segregation of Roma children and end their placement in classes for children with disabilities.

23. Concerning the treatment of persons in police custody, he asked what efforts had been made to uphold the dignity of detainees and limit the use of body searches. He would particularly welcome further information regarding the regulations governing the use of body searches and the manner in which they were conducted. Noting the poor conditions of detention experienced by persons held in police custody, he asked what measures had been taken to modernize police cells in order to bring them into line with international standards. While welcoming the installation of closed-circuit television and audio recording equipment in police cells, he wished to know whether police interview recording systems had been introduced. It would also be interesting to hear whether efforts had been made to establish a free legal aid service so that persons deprived of their liberty had access to a lawyer free of charge from the very outset of their detention. Further information on the regulations governing the length of police custody would also be welcome, including the

circumstances under which pretrial detention could be extended up to a maximum of 72 hours. In the light of reports that numerous inmates had been denied access to medical treatment, he wished to know what steps had been taken to ensure that detained persons could request a free medical examination with an independent doctor of their choosing. He also wondered whether medical examinations of persons deprived of their liberty continued to be conducted in the presence of an escorting police officer and, if so, why. As for minors held in police custody, he would appreciate detailed information concerning the additional safeguards in place to ensure their protection.

24. Turning to the issue of prison overcrowding, he asked what action had been taken to make greater use of alternative non-custodial measures and to reduce the number of persons sentenced to imprisonment owing to a lack of suitable alternative sentences. Further information on the findings of the research conducted by the Ministry of Justice into alternatives to imprisonment would be welcome in that regard. He would also appreciate additional information on the measures taken to improve the material conditions in high security prisons, particularly with regard to overcrowding, minimum cell size, sanitation, and the availability and quality of food. It would be particularly interesting to hear what action had been taken to end the policy of requiring certain categories of detainees to pay for the costs of their imprisonment. Would NGOs be given the opportunity to conduct unannounced visits to detention facilities and play an active role in the monitoring of prison conditions in the future?

25. It would be helpful to receive information on the legal framework governing incommunicado detention, including whether it was subject to judicial oversight, as well as on the number of persons held in such detention and the average and maximum period of time they spent there. An update on remedies available to detainees wishing to challenge their placement in incommunicado detention would be welcome.

26. He would appreciate details of the number of doctors and health professionals working in prisons. It would be useful to learn how many deaths had occurred in custody, disaggregated by cause of death. It was unclear whether detainees underwent a psychological evaluation and whether specialized care was made available to those who required it. Clarification would be welcome regarding the measures put in place for prisoners deemed to be at risk of suicide. He would welcome disaggregated data on the number of suicides that had occurred in detention and an account of the procedures in place to prevent such deaths.

27. It would be helpful to receive a breakdown of the shortcomings identified during prison inspections and an update on the steps taken to address those shortcomings. Further details of the procedures for lodging complaints regarding conditions of detention and ill-treatment in custody would be welcome. He would be grateful for data on the number of officials who had been subjected to disciplinary action for ill-treatment and the types of penalties imposed.

28. With regard to minors, he wished to know where juveniles in detention were held and whether they were kept separate from adults. He would appreciate clarification on the oversight mechanisms in place for detained minors and the types of specialized staff who looked after them. It was unclear whether minors were able to continue their education during their detention.

29. The Committee was concerned about the very low number of complaints of torture or ill-treatment that resulted in prosecutions and would welcome the delegation's comments in that connection. Given how few complaints were found to be admissible, he would welcome a more detailed account of the data provided in annexes 1, 2 and 5 to the State party's report.

30. Noting with regret the absence of available statistics relating to reparations for victims of torture or ill-treatment, he would welcome details of the amount of compensation that had been awarded. It was unclear why Act No. 82/1998, the State Liability Act, concerning liability for damage incurred in the course of the exercise of public powers through a decision or incorrect administrative procedure, provided for a six-month statute of limitations. He wished to learn more about the measures taken by the authorities to provide medical, psychological, physical and other assistance to victims.

31. **Ms. Belmir** said that she would appreciate the delegation's comments regarding the routine searches carried out on migrants and asylum seekers and on the practice of charging them a daily fee of €10 to cover the cost of detaining them. She would welcome clarification of the grounds on which foreign nationals could be detained given that those grounds were not clearly defined in the State party's legislation. She would also be grateful for additional information on the situation of stateless persons present in the State party.

32. **Ms. Gaer**, noting the absence of statistical information in the State party's report, asked whether data had become available, disaggregated by gender and location, on the victims and perpetrators of acts of torture, complaints of involuntary sterilization or castration, and violent attacks against ethnic minorities, in particular Roma. She said that she would also welcome data, disaggregated by age, ethnicity and location, on persons from vulnerable groups who had received social support from the authorities. It would be helpful to learn how many protection orders had been issued during the reporting period, disaggregated by age, ethnicity and location.

33. She wondered whether the State party had plans to ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. It would be useful to receive data, disaggregated by gender, age, ethnicity and location, on victims of ill-treatment who had received compensation from the authorities.

34. **The Chair** said that he wished to learn whether individuals automatically underwent a medical examination upon arrival at a detention facility. It would be useful to hear about the legislative measures and training initiatives the Government had put in place to ensure that prison doctors were able to detect signs of torture at an early stage and knew how to report such cases.

35. **Mr. Heller Rouassant** said that it was unclear why the prison population had dropped by approximately 4,000 and subsequently risen by the same amount between 2012 and 2014.

The meeting rose at 12.25 p.m.